FOOD INDUSTRY ALLIANCE OF NEW YORK STATE, INC.

Advocates of the Food Industry Since 1900

FIA

FoodScan

UPDATE ON ISSUES AND EVENTS FOR NEW YORK STATE FOOD EXECUTIVES MARCH 1998

ISSUE HIGHLIGHTS:

- Ton Mileage Tax On Front Burner
- Taxing Indians Gets More Support

TON MILEAGE TAX ... Write Legislators

Speaking before a joint meeting of FIA's Board of Directors and Government Relations Committee on March 11, **Senate Majority Leader Joseph Bruno (R-Saratoga)** reviewed the proposal he initiated to reduce the Ton Mileage Tax by 25 percent in the budget negotiations. The Ton Mileage Tax is imposed at a rate of 6.6 cents per mile (varying somewhat based on the size and weight of vehicles) for all non-Thruway miles. Subsequently, FIA met with **Assembly Majority Leader Michael Bragman (D-Syracuse)** who expressed support for a significant decrease in the tax as well. A reduction would mean millions of dollars of savings to the industry, affecting retailers, wholesalers and supplier companies. FIA members are urged to write their Senate and Assembly representatives to support reducing or eliminating the Ton Mileage Tax.

OFFICIALS ADDRESS FIA ... On Budget & EBT

In addition to Senator Bruno, two other high profile government leaders took time away from their busy schedules to bring FIA up to date on key issues during the March 11 Board and Government Relations Committee meeting. **Budget Director Bob King** broke away from hectic budget negotiations to give FIA a behind-the-scenes look at the 1998 budget process. Both Mr. King, who previously served Governor Pataki as his highly successful regulatory reform czar, and Senator Bruno expressed optimism that the legislature and Governor would achieve a closer to on-time budget this year. Indeed, as ***FoodScan*** went to press legislative leaders in both houses announced agreement on roughly how much money is available to spend. Such an agreement is generally considered to signal the beginning of serious negotiations.

Brian Wing, Commissioner, Office of Temporary and Disability Assistance (formerly the Department of Social Services) briefed the group on the status of EBT, indicating an early autumn roll-out. Unfortunately, within a week after his remarks EBT was once again delayed. The Staten Island pilot is now expected to begin in January 1999. The problem is that New York City and the TDA need to work out some bugs to get their systems ready to communicate with Citibank's EBT system.

FIA GETS SUPPORT ... For Indian Cig & Gas Taxes

Several Albany legislators have expressed support for FIA's opposition to the Tax Department's proposed rule change repealing regulations requiring Indian tribes to pay taxes on retail reservation sales of tobacco and fuel to non-Indians. Many fired off letters to the Tax Department or the Governor. FIA heard from the following legislators: **Senator Jim Seward (R-Oneonta)** and **Assemblymen Peter Abbate (D-Brooklyn), Richard Anderson (R-Erie), Harold Brown (R-Onondaga), Paul Harenberg (D-Suffolk), William Magee (D-Oneida)** and **Robert Warner (R-Binghamton)**. Under consideration by Governor Pataki is a proposal to compensate retailers with $25 million in tax credits for 1999. FIA's interest, however, remains in fixing the inherent unfairness in failing to collect taxes on sales by Indians to non-Indians.

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TAX SIMPLIFICATION ... Begins With Marshmallows

FIA is supporting the proposed regulation eliminating the sales tax on large marshmallows and is hopeful that it is a first step by the state towards eliminating other instances of taxing products in an inconsistent fashion. In a letter to the Department of Taxation and Finance urging adoption of the regulation, FIA applauded the Department's efforts to standardize the interpretation of the sales tax law regarding which products fall within the candy category and are, therefore, taxable and those which are exempt as food products. Under the current regulation small marshmallows are baking ingredients and therefore tax-exempt; big marshmallows are candy and taxable. Other products that should receive standardized tax treatment include: shampoo (shampoo is taxable; medicated shampoo is not), chocolate (chocolate is taxable; baking chocolate is not), and cough drops (flavored are taxable; non-flavored are not taxable). There are many other items that are subject to a "hypertechnical" interpretation of the Tax Law. In the Alliance's view, the rule change regarding marshmallows will help reduce consumer confusion regarding the application of sales tax and, by simplifying the regulations, will lead to higher levels of retail compliance.

MILK PRICE GOUGING ... FIA Working On Amendment

FIA recently met with Assembly Agriculture Committee Chair William Parment (D-Chautauqua) and discussed making positive amendments to the milk price gouging law. FIA is in the process of working out the details with Parment's office regarding a proposal allowing retailers to spread the decrease in the retail price of milk over two months if the retail price moves more than five percent in any one month. For the time being, the media frenzy following Governor Pataki's announced support for New York joining the Northeast Dairy Compact has waned. After much debate a bill allowing New York to join the Compact passed in the Senate largely along party lines, with Republicans favoring the measure and most Democrats opposing. The bill is currently before the Democratic-controlled Assembly where it faces stiff opposition. Members of the Assembly can expect to hear from environmental organizations who came out in favor of New York joining the compact on the basis that more farms mean more open space and less pollution than if the farms were sold and the land developed.

CIG BILL ... Squeezes Retailers

FIA is opposing legislation amending the Cigarette Marketing Standards Act (CMSA). The CMSA contains minimum mark-ups governing the sale of cigarettes by agents (stampers) to wholesalers, large retailers who fall within the chain store definition and small retailers. This law also provides for the minimum mark-up that must be charged by retailers when selling to the public. **S.5688 by Senator Stafford (R-Clinton)** increases the minimum mark-ups in varying amounts and also creates two special funds for enforcement and education. In a strongly worded Memorandum of Opposition, FIA argued that the bill provides unwarranted increases in the minimum mark-ups for cigarette agents, from 7/8% to 2 1/2% for sales to wholesalers and from 3 7/8% to 5 8/10% for sales to small retailers. But, it only increases the retail mark-up from 7% to 7 7/10%. Since the agents' and wholesalers' mark-up is increased more than the retailers', the bill enriches stampers and wholesalers by squeezing retailer margins. It places a particular hardship on small retailers. The bill also increases the price to the public which FIA views as unnecessary and fears it will worsen the price disparity for retailers competing with illegal Indian sales to non-Indians.

WELFARE TO WORK ... FIA On Board

FIA's Chairman Mike Rourke, Senior Vice President for Communications, A & P Co., Inc., **Wes Holloway**, Manager of Diversity Initiatives, Price Chopper Supermarkets, and FIA President **Jim Rogers** were invited by Governor Pataki to participate in his press conference earlier this month announcing the start of the Welfare to Work Program. FIA and the NYS Retail Council have pledged 34,000

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job opportunities to the Governor's Welfare to Work program. Participating retailers will inform the Labor Department about upcoming employment opportunities and welfare recipients will be trained to fill those positions. The theory behind the program is that employer specific training is more productive than general employment training. Participating companies are not required to hire the state-trained workers, but will agree to include them in the interview process. In addition, employers are eligible for tax incentives of up to $8,500 over two years for hiring and retaining workers through the program. The program will work as follows:

1. Retailers will identify the number of full and part-time job openings, as well as the type of job openings, available in any twelve month period.

2. FIA will provide the state Labor Department with a list of contacts at participating companies. The Department will call the contact people to discuss job titles, descriptions and locations and to find out how they can best design a program to suite your company's needs.

3. The job training, based upon the employer's job descriptions, will be provided at regional centers and consist of two phases. Phase one is general job readiness training (proper dress, punctuality, etc.) and phase two consists of employer specific training based upon the job titles and descriptions provided. Employers can interview the graduates at the end of the two-week phase one training to identify the candidates they may be interested in hiring once training is completed. Members wishing to participate can contact FIA's Michael Rosen at (518)434-1900 ext. 228.

FMI 1998 PUBLIC AFFAIRS AWARD
... Honors Mary Moore

Mary Moore, Director of Public Affairs for D'Agostino Supermarkets, received Food Marketing Institute's (FMI) 1998 Glen Woodard Public Affairs Award at the Public Affairs Assembly in Washington, D.C. earlier this month. The award is given in memory of Glen P. Woodard, Jr. who set the standard for excellence in the field of public affairs. The Woodard Award honors an FMI member who has made outstanding contributions in shaping public policy, legislation and regulation at the national and local levels. Mary was praised for her ability to address the demands of media relations, consumer affairs, community relations and issues involving government at all levels. Mary's integrity, credibility and dedication to the profession were cited. Her handling of a political protest/boycott D'Agostino's faced in 1990 over coffee is now a case study in FMI's manual on how to handle social, economic and political protests. Mary chaired FMI's Government Relations Committee from 1995 to 1996 and serves on the same panel for FIA.

ConEd CUSTOMERS
... May Save With FIA

FIA has registered as an electric aggregator with the Consolidated Edison Co. of New York (ConEd) for the purpose of obtaining lower electricity rates for Alliance members. By banding together large numbers of supermarkets in the ConEd service area (all five boroughs of New York City and lower Westchester County), FIA may be able to obtain a lower price for electricity than FIA members could obtain on their own. A limited number of ConEd customers will be able to save money by choosing their electricity supplier. Con Ed is making 500,000 megawatts of power usage available in the first phase of Retail Choice. FIA is successfully operating a small aggregation of stores in the Orange & Rockland PowerPick pilot program which has reduced members' electric bills. ConEd is starting the first phase of its Retail Choice program on June 1, 1998. Interested members must file Customer Enrollment Authorization Forms with FIA as soon as possible but no later than April 10. To register, call Chris Pellnat in FIA's Albany office at (518) 434-1900 ext. 227.

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FIA IS TRACKING: **... Scanning Equipment**	**A.1363 by Assemblyman Lafayette (D-Queens)** includes scanning equipment among the devices inspected by the Department of Agriculture & Markets. Passed by Assembly. Delivered to Senate Ag & Markets Committee.
... Price Gouging	**S.6020-A/A.1357-A by Assemblyman Ivan Lafayette (D-Queens)** prohibits price gouging by all parties within the chain of distribution of consumer goods necessary to health, safety and welfare. Both bills reported out of committee.
... Perishable Foods	**A.3860-B by Assemblyman Dinowitz (D-Bronx)** requires dating and recommended conditions of storage for perishable foods and provides penalties for violations. The bill was reported out of committee. There is no companion bill.
... Retail Signage	**A.9890 by Assemblywoman Audrey Pheffer (D-Queens)** requires retail signage informing customers they must wash pre-packaged salads before eating them.
... HACCP	**A.9898 by Assemblyman Parment (D-Chautauqua)** allows supermarkets to implement Hazard Analysis Critical Control Point (HACCP) programs including self-inspections on a voluntary basis. Although the self inspections would not completely replace inspections by the Department of Agriculture & Markets, the HACCP program would be recognized and approved by the Department and lead to less frequent inspections. This recommendation was introduced by FIA at a state legislative food safety hearing in February.
... Northeast Dairy Compact	**S.2088/A.3378-A by Senator Kuhl (R-Steuben)/Assemblyman Parment (D-Chautauqua)** enables the state to join the Northeast Interstate Dairy Compact. Passed by the Senate.
... False Advertising	**S.4266 by Senator Alesi (R-Monroe)** provides that false advertising includes false price comparisons, including comparisons to other merchants' prices. Passed by the Senate. Delivered to Assembly Consumer Protection Committee.
... Food Labeling	**S.5798/A.9411 by Senator Paterson (D-New York)/ Assemblywoman Greene (D-Bronx)** requires labeling of food products raised with fertilizers containing recycled sewage sludge.
... Cig Taxes	**S.6176/A.9216 by Senator Leichter (D-Bronx)/Assemblyman Dinowtiz (D-Bronx)** increases the tax on cigarettes by 37.5 cents per ten cigarettes to raise additional money for the school construction and repair fund.
... Retail Franchises	**S.6225/A.4315 by Senator John Marchi (R-Staten Island)/ Assemblyman David Sidikman (D-Nassau)** would increase protection for retail franchises which are terminated.
... Bad Check Fee	**S.6264/A.9386 by Senator Lack (R-Suffolk)/Assemblyman Schimminger (D-Erie)** raises the statutory fee for bad checks from $20 to $30.
... Alcoholic Beverages	**S.6330/A.9740 by Senator Goodman (R-New York)/Assemblywoman (Matusow D-Westchester)** allows retail licensees to sell alcoholic beverages on credit.

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